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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Oct 16, 2023

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

KATHY ESPINDA,

Plaintiff,

v.

NICHOLAS K. WASSON,

Defendant.

No. 4:23-cv-05032-MKD

ORDER DISMISSING CASE
WITHOUT PREJUDICE

ECF No. 1

On March 14, 2023, Plaintiff filed a *pro se* complaint. ECF No. 1. Plaintiff

filed a notice of unexecuted summons on May 8, 2023. ECF No. 4. Plaintiff then

filed a Motion for Default Judgment, ECF No. 5, which this Court denied, ECF

No. 6. On July 12, 2023, the Court granted Plaintiff's Motion for Extension of

Time for Service. ECF No. 8. On October 10, 2023, Plaintiff filed documents that

indicate Timothy Repass was served. ECF No. 10. Samuel Meyler has entered a

Notice of Appearance in this case, indicating he is appearing on behalf of himself

and not on behalf of Defendant. ECF No. 9. Plaintiff has a separate cause of

1 action in this Court in which Mr. Meyler is the defendant. *Espinda v. Meyler*, No.
2 4:23-cv-5085-MKD (E.D. Wash. June 8, 2023).

3 Plaintiff was cautioned on June 1, 2023 that this case would be dismissed
4 without prejudice for failure to timely effectuate service if she did not show cause
5 within 30 days as to why the case should not be dismissed. ECF No. 6. Plaintiff
6 requested an extension of time for service, and she was given 90 days from July
7 12, 2023, to complete service. ECF No. 8. On October 10, 2023, Plaintiff filed a
8 declaration of service that indicates “Summons in a Civil Action, Joint Status
9 Report-5” were served upon Defendant “at the residence and usual place of abode
10 of said person(s),” and a copy was left with Timothy Repass. ECF No. 10 at 2.
11 However, the declaration also states the documents were served at 801 Kirkland
12 Ave. Suite 100 in Kirkland, Washington. *Id.* The listed address is the address of
13 Timothy Repass. *Id.* at 3. There is an email from Mr. Repass that indicates
14 Plaintiff attempted to serve Mr. Repass. *Id.* There is no indication Defendant was
15 served. Plaintiff appears to concede she did not serve Defendant; she contends she
16 served Mr. Repass, who she contends “admitted” he represents Defendant, and she
17 thus asks the Court to “please provide law that shows Nicholas Wasson was not
18 served/notified.” *Id.* at 4-5.

19 The Court cannot provide legal advice to *pro se* parties, except to
20 recommend they seek the advice of a trained attorney. District judges have no

1 obligation to act as counsel or paralegal to *pro se* litigants because requiring judges
2 to explain the details of federal procedure or act as counsel would “undermine
3 district judges’ role as impartial decisionmakers.” *Pliler v. Ford*, 542 U.S. 225,
4 231 (2004); *see also Jacobsen v. Filler*, 790 F.2d 1362, 1365-66 (9th Cir. 1986)
5 (noting that advising *pro se* litigants would make the court “a player in the
6 adversary process rather than remaining its referee”). Thus, the Court will not
7 provide advice to Plaintiff on service. Plaintiff may refer to this Court’s prior
8 orders and the Federal Rules of Civil Procedure, and may seek the advice of an
9 attorney.

10 Pursuant to Federal Rule of Civil Procedure 4(m), the Court dismisses this
11 case without prejudice.

12 **IT IS ORDERED:**

- 13 1. This action is **DISMISSED without prejudice**.
14 2. The District Court Executive is directed to enter this Order, provide
15 copies to *pro se* Plaintiff, **ENTER JUDGMENT** and **CLOSE** the file.

16 DATED October 16, 2023.

17 s/Mary K. Dimke
18 MARY K. DIMKE
19 UNITED STATES DISTRICT JUDGE
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